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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,679	03/03/2004	Toshinori Tsukamoto	107101-00055	2279

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EXAMINER

MCCALL, ERIC SCOTT

ART UNIT PAPER NUMBER

2855

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/790,679

Applicant(s)

TSUKAMOTO ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 6-8 and 11-13 is/are allowed.
6) ☒ Claim(s) 1-5, 9, 10 and 14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

MALFUNCTION DETECTING SYSTEM OF ENGINE
COOLING APPARATUS

FINAL OFFICE ACTION

In response to the Applicant's amendment dated Sep. 22, 2005.

SPECIFICATION

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. The Applicant's cooperation is requested in correcting any errors of which the Applicant may become aware of in the specification.

CLAIMS

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 9, 10, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Oka et al. (2003/0131659).

With respect to claim 1, Oka et al. suggest a system for detecting malfunction of an engine cooling apparatus constituted as a radiator having an inlet pipe and an outlet pipe each connected to an internal combustion engine in such a manner that coolant flows in the radiator through the inlet pipe to be cooled and is then recirculated back to the engine through the outlet pipe, and a thermostat opening/closing the inlet pipe and the outlet pipe, comprising:

a temperature sensor (21) installed at the radiator and detecting a temperature of the coolant flowing through at least one of the inlet pipe and outlet pipe (Fig. 21);

malfunction discrimination area determining means for determining whether operation of the engine since starting is within an area that enables malfunction discrimination of the cooling apparatus (page 4, paragraph 70); and

malfunction discriminating means for discriminating whether the cooling apparatus has malfunctioned based on change of the temperature of the coolant measured by said temperature sensor since the engine starting, when the operation of the engine is discriminated to be within the malfunction discrimination area (page 4, paragraph 71).

With respect to claim 2, Oka et al. suggest that the malfunction discrimination area determining means includes:

time measuring means for measuring a period of time since the engine starting; and

time comparing means for comparing the measured period of time with a predetermined period of time (page 4, paragraph 70; time is measured until a predetermined amount of time elapses); and

the operation of the engine is within the area that enables the malfunction discrimination of the cooling apparatus, when the measured period of time exceeds the predetermined period of time (ie. after the predetermined period of time elapses, temperature comparisons are carried out).

With respect to claim 3, Oka et al. suggest that the malfunction discriminating means includes:

temperature comparing means for comparing the temperature of the coolant with a reference value; and

discriminates that the cooling apparatus has malfunctioned, when the temperature of the coolant exceeds the reference value (page 4, paragraph 71).

With respect to claim 4, Oka et al. suggest that the predetermined period of time is calculated from the temperature of the coolant at engine starting and thus suggest the claimed subject matter thereof.

With respect to claim 5, Oka et al. suggest that the reference value is calculated from the temperature of the coolant at engine starting since the reference value is a coolant temperature and the temperature comparison is made after engine start-up.

With respect to claim 9, Oka et al. teach the malfunction discriminating means discriminates that the thermostat has experienced open-state sticking such that the cooling apparatus has malfunctioned (page 4, paragraph 71).

With respect to claim 10, Oka et al. suggest a system for detecting malfunction of an engine cooling apparatus constituted as a radiator having an inlet pipe and an outlet pipe each connected to an internal combustion engine in such a manner that coolant flows in the radiator through the inlet pipe to be cooled and is then recirculated back to the engine through the outlet pipe, and a thermostat opening/closing the inlet pipe and the outlet pipe, comprising:

a temperature sensor (21) installed at the radiator and detecting a temperature of the coolant flowing through at least one of the inlet pipe and outlet pipe (Fig. 21);

time measuring means for measuring a period of time since the engine starting (page 4, paragraph 70);

time comparing means for comparing the measured period of time with a predetermined value indicative of a period of time until the thermostat presumably opens after the engine starting (page 4, paragraph 70);

temperature comparing means for comparing the temperature of the coolant measured by said temperature sensor with a reference value, when the measured period of time exceeds the predetermined value (page 4, paragraph 71); and

malfunction discriminating means for discriminating that the cooling apparatus has malfunctioned, when the temperature of the coolant measured by said temperature sensor exceeds the reference value (page 4, paragraph 71).

With respect to claim 14, Oka et al. suggest the malfunction discriminating means discriminates that the thermostat has experienced open-state sticking such that the cooling apparatus has malfunctioned (page 4, paragraph 71).

Allowable Subject Matter

Based on the Applicant's amendments, claims 6-8 and 11-13 have been found to be allowable over the prior art.

RESPONSE TO ARGUMENTS

The Applicant's arguments have been considered but have not been found to be persuasive.

Specifically, the Applicant's argument that the prior art of Oka et al. fails to teach a temperature sensor positioned at the radiator and basing a malfunction decision from a temperature measured thereby has been considered but has not been found to be persuasive.

Figure 21 of the prior art, which has been identified as part of the second embodiment, clearly discloses a temperature sensor (21) installed at the radiator as claimed.

Next, measurements by that temperature sensor are used in determining a malfunction of the engine cooling apparatus as claimed. If not, the temperature sensor would need not be present.

Furthermore, the Applicant has even stated in their arguments that Oka et al. shows a temperature sensor (21) positioned at the radiator and that a malfunction is determined by comparing the coolant temperature on the engine side with the coolant temperature on the radiator side.

Thus, the Examiner sets forth that the Applicant's own comments support the Examiner's position that temperature measurements from the radiator side are used in determining the operating state of the cooling system as claimed.

CONCLUSION

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eric S. McCall
Primary Examiner
Art Unit 2855
Dec. 07, 2005